

HOUSE BILL 1547

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 1 and Title 45, Chapter 2, relative to the
regulation of trust companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-2-2001(a), is amended by
deleting the subsection and substituting instead the following:

(a) A private trust company acting as a fiduciary in this state is a company that does not transact a trust business with the general public. All individuals who control the private trust company, who establish trusts or charitable organizations controlling the private trust company, or who control corporations, sole proprietorships, partnerships, joint ventures, associations, trusts, estates, business trusts, limited liability companies, or other companies controlling the private trust company must be family members. The company shall comply with this chapter and chapter 1 of this title, and the rules of this chapter and chapter 1 of this title applicable to a public trust company unless expressly exempted therefrom in writing by the commissioner pursuant to this part or by rule adopted by the department.

SECTION 2. Tennessee Code Annotated, Section 45-2-2001(b)(2), is amended by deleting the subdivision and substituting instead the following:

(b)

(2) As used in this part, unless the context requires otherwise:

(A) "Collateral kinship" means a relationship that is not lineal, but stems from a common ancestor;

(B) "Designated ancestor" means one (1) or more ancestors of the family designated as such in the application submitted under this part. A designated ancestor may be either living or deceased. If two (2) designated ancestors are designated, they must be or have been spouses to each other, and if more than such first two (2) designated ancestors are designated, each such additional designated ancestor must be or have been a spouse of either of the first two (2) designated ancestors;

(C) "Family affiliate" means a company or other entity in which one (1) or more family members, directly or indirectly, through ownership of voting securities or equity, by contract, through power of direction, through beneficial or other ownership in one (1) or more other entities, or otherwise:

(i) Owns a majority interest; or

(ii) May direct or cause the direction of the management and policies of the company or other entity, whether alone or in combination with others;

(D) "Family client" means:

(i) A family member;

(ii) An organization, foundation, or trust:

(a) Whose primary purpose is not-for-profit or charitable, whether or not tax-qualified; and

(b) Of which one (1) or more family clients is an organizer, incorporator, officer, member of the governing board, trustee, or donor, alone or in combination with other family clients, of a substantial portion of its assets;

(iii) The officers, directors, individual trustees and managers of the entity defined in subdivision (b)(2)(D)(ii), and their immediate family;

(iv) An estate of a family client;

(v) An inter vivos or testamentary trust established by one (1) or more family clients, whether or not in combination with a third party;

(vi) An inter vivos or testamentary trust if the noncharitable beneficiaries with vested interests consist of one (1) or more family clients;

(vii) A family affiliate, its directors, officers, managers, or trustees and their immediate family; and

(viii) A family services provider;

(E) "Family member" means a designated ancestor and:

(i) An individual within the twelfth degree of lineal kinship of a designated ancestor;

(ii) An individual within the eleventh degree of collateral kinship of a designated ancestor;

(iii) A spouse or former spouse of a designated ancestor or of an individual defined as a family member in subdivision (b)(2)(E)(i) or (ii); and

(iv) An individual who is a relative of a spouse or former spouse specified in subdivision (b)(2)(E)(iii) who is within the fifth degree of lineal or collateral kinship of the spouse or former spouse;

(F) "Family services provider" means:

- (i) A full-time employee of the private trust company; or
- (ii) A full-time employee of a family member providing personal services to the family member, including, but not limited to, household, legal, or accounting services;

(G) "Foster child" means an individual raised or being raised by someone who is not the individual's natural or adoptive parent;

(H) "Immediate family" means an individual's spouse or former spouse, any descendant of that individual, and any relative living in the same residence as that individual;

(I) "Lineal kinship" means the direct ancestors and descendants of an individual; and

(J) "Transact a trust business with the general public" means any sale, solicitation, arrangement, agreement, or transaction to provide fiduciary services as described in § 45-2-1002, whether or not for a fee, commission, or any other type of remuneration, with any client that is not a family client.

(3) For purposes of this part:

(A) A legally adopted person shall be treated as a natural child of the adoptive parents;

(B) A stepchild shall be treated as a natural child of the individual who is or was the stepparent of that child;

(C) A foster child, or an individual who was a minor when an adult became the individual's legal guardian, shall be treated as a natural child of the adult appointed as foster parent or guardian;

(D) A child of a spouse or former spouse of an individual shall be treated as a natural child of that individual;

(E) Degrees are calculated by adding the number of steps from a relevant designated ancestor through each individual to the family member either directly, in case of lineal kinship, or through a designated ancestor, in the case of collateral kinship; and

(F) A person who was a family client at the time of becoming a client of the private trust company shall not cease to be a family client solely due to a death, divorce, retirement, or other similar event.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.